

Environmentally Concerned Citizens of Randolph County
PO Box 631, Winchester, IN 47394

September 10, 2010

#09-615 (WPCB) (CFO Rulemaking)
Janet Pittman
Rules Development Branch
Office of Legal Counsel
Indiana Department of Environmental Management
100 North Senate Avenue MC 65-46
Indianapolis, IN 46204-2251

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DEPARTMENT OF
ENVIRONMENTAL MANAGEMENT
OFFICE OF LAND QUALITY

Dear Ms. Pittman:

The Indiana Department of Environmental Management has posted a second notice of public comment period on amendments to rules concerning confined feeding operations (CFOs), LSA Document #09-615, in the Indiana Register.

The Environmentally Concerned Citizens of Randolph County believe that all CAFO's discharge. Some of the time it is a point source discharge (such as a drag line coming apart, or applied manure getting directly into field tiles and discharging into the creek). This has occurred multiple times in Randolph County. We have also had non-point source discharges resulting in fish kills on at least two occasions when manure was over applied, and then rain washed it into streams (Aaron Chalfant, Rick Kremer).

More evidence of manure discharge comes from Grand Lake St. Mary's, just over the border in Mercer County, Ohio. This lake is experiencing toxic algae blooms due to excessive nutrients. According to the Ohio EPA, "One of the primary causes for surplus nutrients entering the lake is the amount of manure being applied to land in the lake's watershed." (State Actions for Water Quality Improvement at Grand Lake St. Marys; July 30, 2010). Clearly the Ohio EPA believes manure is discharging into the watershed.

Because of these ongoing discharges from CAFO and CFO's into waters of the state, we believe the following should be included in the new CFO rule in Indiana:

1. Any CFO that has a discharge to waters of the state or habitually violates CFO rules (such as spreading setbacks from waterways and property lines, spreading on saturated ground, poor record keeping, etc) should be required to obtain and NPDES permit.
2. CFO's located in a sensitive area should be required to have an individual NPDES permit.
3. Each CFO/CAFO should be required to submit manure application reports twice a year. In January they should state plans for where manure will be spread based on soil needs and crop requirements. In December they should submit a report documenting where this manure actually went and at what rate. This should be posted to the Virtual File Cabinet.
4. Public hearings should be held for CFO and CAFO approvals. Neighbors should be

notified for new CFO's and CAFO's, expansions, and permit renewals.

5.No manure application from CFO's and CAFO's should be allowed on fields with phosphorous levels of 200 ppm or higher.

6.CFO or CAFO generated manure should be stockpiled for no more than 96 hours outside its regulated manure holding structure.

7.No manure application from CFO's and CAFO's should be allowed on frozen ground or 24 hours prior to a forecasted major rain event.

8.Anyone spreading CFO or CAFO generated manure (whether or not they are a CAFO or CFO operator) should follow a manure management plan with phosphorous as a limiting factor and should follow all CFO and CAFO manure application regulations.

9.IDEM should regulate all manure storage for manure generated by CAFO's or CFO's.

10.Update the state CFO program to require all CFOs, regardless of size, to comply with a single set of requirements. This set would encompass:

- The requirements currently applied under Indiana state law to permitted CAFOs;
- The requirements under the 2008 revised federal NPDES regulations; and
- Additional protective measure as determined by IDEM based on the risk of discharge.

11.An Indiana licensed professional engineer on the project should be required to certify that CFO and CAFO facilities and manure containment structures are built according to designs approved by IDEM.

12.Before a CFO or CAFO is allowed to transfer property between operators, the purchaser/recipient must satisfy good character and performance bonding requirements.

13.The manure management plan should be an enforceable component of the CFO permit and all records pertaining to its implementation should be publicly available. At a minimum this should include:

- 1.location of the facility and proximity to drain tiles and waters of the state;
- 2.number and type of animals;
- 3.a full definition of waste management techniques including where and how often waste is applied.
- 4.what crops are used to absorb nutrients;
- 5.mass and concentration of nutrients and pathogens with maximum application amounts, types and locations.
- 6.seasonal constraints such as no winter or frozen ground operations, and precipitation related restrictions.

Thank you for considering our comments.

Sincerely,

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